



Questions Asked By Nonresident Sellers of California Real Estate

Q. Am I subject to withholding?

A. If the total sale price exceeds \$100,000 and you do not qualify for an exemption, you may be subject to withholding. See Form 597-W.

Q. Why is the withholding 3.33% of the full sale price when I only own a 25% interest in the property?

A. California law requires withholding to be based on the total sale price regardless of the ownership interest. As part of the waiver process, we may reduce the statutory withholding by using the ownership interest in the calculation.

Q. What is the status of my waiver request?

A. Please wait 10 days from the date of your fax before contacting us. If you provided all the necessary information, we will process your request in 5 days or less. If we need more information, we will confirm the receipt of your request with a confirmation fax within 2 business days. Requests without the necessary information take us longer to process. Use the checklist in this pamphlet to determine the information you must include with your waiver request.

Q. What should I write at the top of Side 2 of Form 597-W (waiver request form) to explain my reason for requesting a waiver or reduced withholding?

A. The information you provide helps us to process your waiver request faster. It is always best to include as much detail as possible. Here are some examples of minimum information you should provide: "I only own 50% of the property." or "I am selling the property at a loss." or "We recently inherited the property."

Q. What is the new Form 597-W?

A. The new form combines forms 590-RE (certifying exemption from withholding) and 597-A (waiver request form). It helps the seller determine whether an exemption applies, and, if not, it guides the seller through the request for a reduction or waiver of withholding.

Q. What can a seller or escrow company do to ensure that faxed requests are received by FTB?

A. It's important to have your fax number programmed into the memory of your fax machine. Sometimes, even though you receive a confirmation from your fax machine, the fax we receive is not fully readable. If we have your fax number, we can notify you of the defective transmission and ask you to resubmit your information.



Questions Asked By Escrow Agents

Q. Do I withhold from the gross proceeds or only from the nonresident proceeds?

A. You must withhold the statutory 3.33% of the total sales price. The statutory withholding is withheld from only the nonresident sellers. If there is more than one nonresident seller, the statutory tax liability is allocated to, and withheld from, all nonresident sellers according to each nonresident seller's proportional share of the amount withheld.

Q. What if the statutory withholding amount is incorrect? For example, the nonresident seller owns 5% of a million dollar piece of property.

A. The nonresident seller should complete Form 597-W (waiver request form) and fax the request to the Nonresident Withholding Section so that we can determine whether we can decrease the withholding amount.

Q. What form do I use to send in the amount withheld?

A. Use Form 597. Send Copy A with the funds withheld to us. Give Copies B and C to the seller. Keep Copy D for the escrow files.

Q. Why do I need to send in Form 597 with the check?

A. Form 597 provides the information we need to correctly apply the funds withheld.

Q. What should I write on the check that I send with Form 597?

A. Please make the check payable to Franchise Tax Board and note the following on the face of the check: Nonresident Withholding Section, name of the seller, and social security number of the seller.

Q. Why does the seller need copies B and C of Form 597?

A. Copy B of Form 597 is used much like a W-2. The seller attaches it to the front of his or her California return to claim the withholding credit on the return. Copy C is for the seller's records.



Real Estate Seminars

We offer seminars for escrow companies and real estate associations. At these seminars, we discuss the real estate withholding requirements and waiver request processing. If your association or company is interested in a seminar, please contact us at:

*(916) 845-6442 or ca_nrws@ftb.ca.gov
Subject: RE Seminars.*



Need a Quick Response For Your Waiver Request?

We want to help you get your waiver request in and out of our office quickly. To do this, we need to determine your tax basis for the property, including any depreciation taken or any improvements made. When you provide all the information necessary to make the determination on the waiver request, we can make a decision within 5 days or less. Here's how you can help. Provide copies of the following documents for the situations shown:

For all properties sold or exchanged:

- ☐ Depreciation schedule (if ever rented)
- ☐ Schedule of any improvements made

You may need to provide other documents, depending on the situation. Please see if your situation fits any of the following and provide appropriate additional documents with your waiver request.

If the property currently being transferred was PURCHASED:

- ☐ Estimated closing statement for the current transfer, **and**
 - ☐ Grant deed, or
 - ☐ Original purchase statement

If the property is currently being transferred as part of an IRC Section 1031 LIKE-KIND EXCHANGE:

- ☐ Estimated closing statement for the current transfer, **and**
- ☐ Completed Form 597-E, **and**
 - ☐ Completed federal Form 8824, or
 - ☐ Original purchase statement, or
 - ☐ Sales escrow statements for property given up and purchase escrow statement for property received.

If the property currently being sold was INHERITED:

- ☐ Estimated closing statement for the current transfer, **and**
- ☐ Death certificate, **and**
- ☐ Federal Form 706, **and**
 - ☐ Documents to support the property's fair market value at date of death, or
 - ☐ Comparative market analysis of property as of date of death, **and**

If either of these apply:

- ☐ Trust agreement if acquired through a trust inheritance.
- ☐ Independent appraisal if acquired through a life estate.

If the property currently being transferred was obtained as part of a RIGHT OF SURVIVORSHIP (JOINT TENANCY):

- ☐ Estimated closing statement for current transfer, **and**
- ☐ Death certificate, **and**
 - ☐ An appraisal of the property at the time of death, or
 - ☐ Probate documents, or
 - ☐ Federal Form 706, or
 - ☐ Original purchase statement, or
 - ☐ Original grant deed.

If the property was acquired through FORECLOSURE or REPOSSESSION or you have other questions regarding other situations not listed here, please contact us for assistance.

Nonresident Real Estate Withholding

INTERNET: www.ftb.ca.gov
(Click on "Tax Assistance" and then "Nonresident Withholding".)

EMAIL: CA_NRWS@ftb.ca.gov
(This email address is only for non-confidential information related to nonresident withholding.)

TELEPHONE:
(888) 792-4900 (toll-free in US)
(916) 845-4900 (Try our automated telephone service for help with common withholding questions. To reach a customer service representative, press 0 at any time from 8 a.m. to 5 p.m.)

FAX:
(916) 845-4831

FORMS:
Internet: www.ftb.ca.gov/geninfo/was/forms.htm
Forms by Fax: (800) 998-3676

Assistance for persons with disabilities:
We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments, call:
from voice phone (800) 735-2922, or from
TTY/TDD (800) 822-6268.

MAILING ADDRESSES:
Payments (be sure to include Form 597):
PO Box 942867
Sacramento CA 94267-0001

Waiver Requests (use Form 597-W):
PO Box 651
Sacramento CA 95812-0651

Nonresident Real Estate Withholding



California Franchise Tax Board